



Town of Oro Valley
Community and Economic Development Department

Date: July 13, 2021

Subject: Zoning Interpretation – Allowance of aviation fuel storage and dispensing at 13100 N. Tailwind Dr. within the La Cholla Airpark. (2101603)

REQUEST

A zoning interpretation was initiated by Monica Derrick, attorney with Burris and Macomber, PLLC, on behalf of La Cholla Airpark resident Craig Grave. The purpose is to answer the following questions:

1. Is aviation fuel storage and dispensing for personal use allowed on the subject property located within the La Cholla Airpark?
2. Is a mobile fuel tanker allowed to store and dispense aviation fuel for personal use on the subject property located within the La Cholla Airpark?

INFORMATION:

The following timeline provides context for the La Cholla Airpark:

- Town Council approved the R1-300 zoning district to allow for airport and general aviation use via Ordinance (O) 05-19 on May 18, 2005 prior to the La Cholla Airpark annexation
- The Airport Environs Zone was established as an overlay district via Ordinance (O) 05-20 on May 18, 2005 prior to the annexation of the La Cholla Airpark
- The La Cholla Airpark was annexed into the Town on July 6, 2005 via Ordinance (O) 05-30
- Town Council approved the translational zoning of R1-300 for the La Cholla Airpark via Ordinance (O) 06-01 on January 4, 2006

The following excerpts from the Zoning Code, ordinances, staff reports, and other applicable documents are pertinent to this request.

1. Addressing aviation fuel storage and dispensing for personal use on the subject property.

Annexation

- Pre-annexation Development Agreement
 - *The Property consists of approximately 1,000 acres of real property that is currently built or planned for residential development. Within the Property boundaries is a private airpark ("LCAP Airpark") owned by LCAP for use by owners of residential lots within the Property and their invitees.*

- *LCAP exists for the purpose of providing aircraft runway and related support facilities, including hangars, parking and fuel for the shareholders of LCAP and their invited guests.*

Zoning and Permitted Uses

- *R1-300 Zoning District (Table 23-1)*
 - *Permitted Uses*
 - *Accessory Buildings and Uses*
 - *General Aviation*
 - *Dwelling Units, Single-Family*

Property Development Standards for Single-Family Residential Districts (Section 23.6)

B. R1-300 Single-Family District (Section 23.6B)

The provisions of subsection [A](#) of this section shall apply. The following additional requirements shall apply in this [district](#).

1. [General Aviation](#) Airstrip requirements:
 - a. Minimum [site](#): twenty-five (25) [acres](#).
 - b. Minimum runway length: one thousand five hundred (1,500) feet.
2. [Setback](#) of airport facilities: ten (10) feet from all property lines.
3. *Aircraft Hangar*
 - a. If located with [aircraft](#) (taxiway) access to an airport, each [lot](#) may have one [accessory building](#) suitable for the storage of [aircraft](#).
 - b. Maximum height: thirty-four (34) feet.
 - c. [Setbacks](#): twenty (20) feet from property line or edge of [street](#), whichever is most restrictive.
 - d. Minimum distance between [buildings](#): ten (10) feet

Airport Environs Zone (Section 24.8)

- 24.8.A *Purpose*

The purpose of this overlay zone is to protect the health, safety, and welfare of persons and property in the vicinity of the La Cholla Airpark. To this end the Airport Environs Zone ([AEZ](#)) restrictions:

1. Control [noise](#) and safety hazards associated with [aircraft](#) operations.

- 24.8.B *Scope*

The [AEZ](#) is made up of the following five (5) zones as established by the Compatible [Use](#) Zone (CUZ) map (Figure 1) and the Conical Zone (Figure 2).

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CUZ A	Runway and Runway Protection CUZ
CUZ B	Outer Runway Protection CUZ
CUZ C	Outer Approach CUZs
CUZ D	Overflight Area
Conical Zone	No Obstruction of Avigation Area

The [AEZ](#) is not intended to have jurisdiction over the operation of the airport [uses](#), including [accessory uses](#), within the Airport.

- 24.8.C *Applicability*

1. The provisions of the Airport Environs Zone ([AEZ](#)) apply to the following on all property located within the [AEZ](#) boundaries.

b. New development including [subdivisions](#), development plans and new construction on individual [lots](#).

c. [Use](#) changes, expansions, or additions to and existing [structures](#) as follows.

i. A proposed change to any [use](#) restricted within the applicable zone of the [AEZ](#).

d. Existing development in regards to Section [24.8.D](#), [Permitted Uses](#) and Prohibited Activities.

3. Nothing contained in this Section affects existing, developed property or the right to its continued [use](#) for the purpose legally used at the time these regulations become effective, nor do these regulations affect any reasonable repairs to, or [alterations](#) of, [buildings](#) or property used for such existing purposes.

- 24.8.D *General Provisions*

1. *Permitted Uses*

The land [uses](#) permitted are those permitted by the underlying zone, [except](#) as modified by this Section.

6. *Prohibited Activities*

[Communications nuisance](#); [dangerous activity, hazard or obstruction](#); [illumination nuisance](#); and [visibility nuisance](#).

E. *Compatible Use Zone Provisions*

The compatible [use](#) zones are shown in the following Figure 1.

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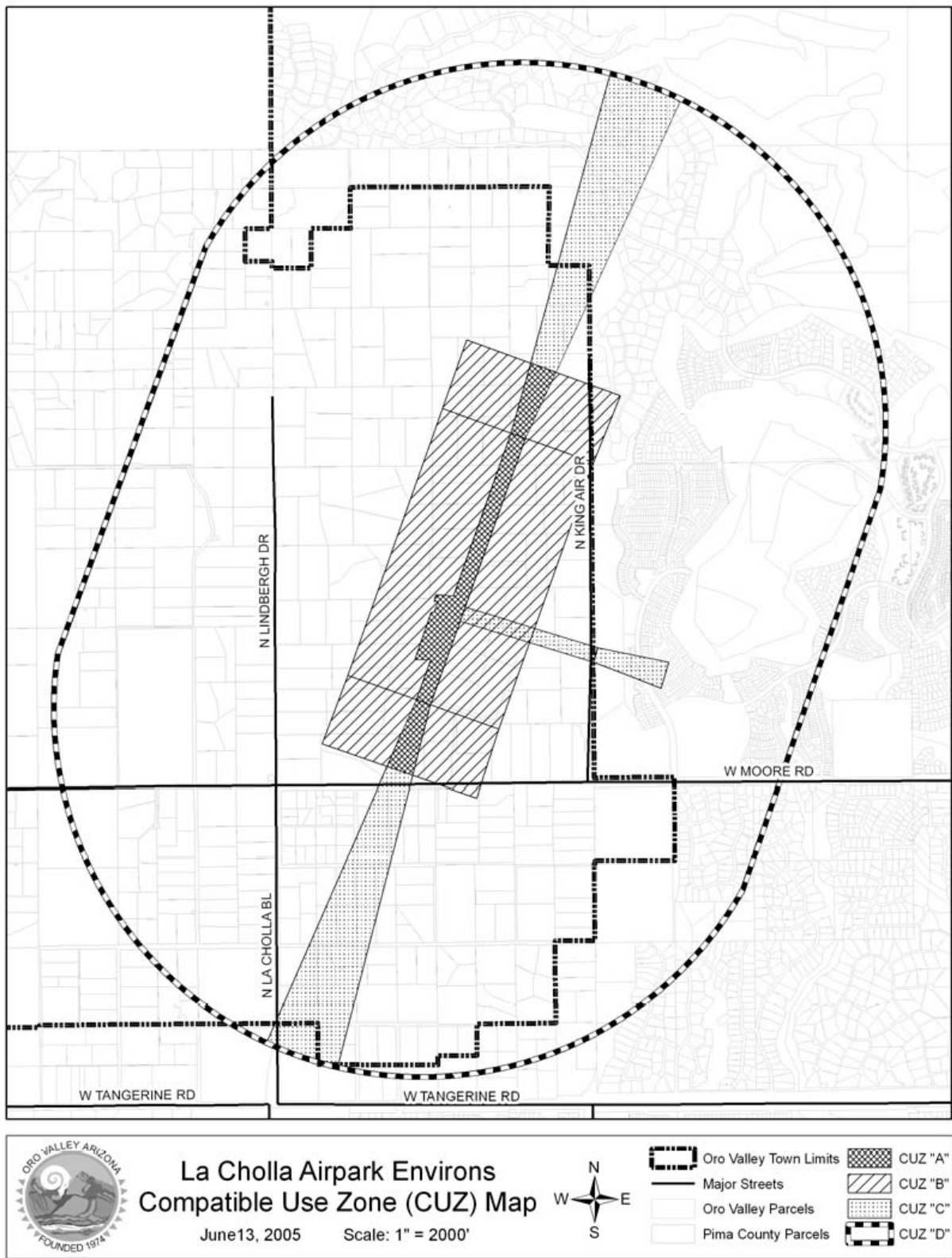


Figure 1

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The following table shows applicable standards and the broad categories of [uses](#) allowed within each zone:

Table 1

CUZ A	Permitted Uses : General Aviation Airstrip, including accessory uses and helicopter, sailplane, hot air balloon and ultralight aircraft facilities
CUZ B	<p>Permitted Uses:</p> <p>Accessory facilities to those in CUZ A</p> <p>Single-family Residential and others per Chapter 23 with the exception of group homes and temporary real estate offices.</p> <p>Conditional Uses:</p> <p>Those provided in Chapter 23 with the exception of utility poles and wires. Utility, office, and industrial uses.</p> <p>Uses may not provide highly reflective surfaces, have large areas of standing water or generate smoke, steam or other visual obstructions.</p>
CUZ C	<p>Permitted Uses: Single-family Residential and others per Chapter 23 with the exception of group homes and temporary real estate offices.</p> <p>Conditional Uses:</p> <p>Those provided in Chapter 23 with the addition of group homes and temporary real estate offices. Utility, office, and industrial uses.</p> <p>Uses may not provide highly reflective surfaces, have large areas of standing water or generate smoke, steam or other visual obstructions.</p> <p>All uses must provide 30% open space in a corridor generally along, or parallel to, the alignment of the runway.</p>
CUZ D	Permitted Uses : Per underlying zoning district .

Zoning Code Definitions (Chapter 31)

- **Accessory Use**

A [use](#) customarily subordinate to the main [use](#) of the [lot](#) or [building](#).

- **Aircraft**

An airborne [vehicle](#) capable of carrying at least one (1) person and shall include, but not be limited to, airplanes, helicopters, rotorcraft, gliders, hang-gliders, motorized or non-motorized balloons, dirigibles, and blimps.

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- **Airport/Airstrip**

An area which is used, or is intended to be used, primarily for the takeoff and landing of [aircraft](#) and any appurtenant areas which are used, or intended to be used, for airport [buildings](#) or facilities, including [open spaces](#), taxiways and tie-down areas, hangars and other [accessory buildings](#).

- **General Aviation**

The operation of non-commercial [aircraft](#), including storage (hangars), [maintenance](#) and airstrips.

2. Addressing a mobile tanker to store and dispense fuel for personal use on the subject property.

Fire Code Allowances

Please be aware, there are Fire Code regulations restricting the ability to store a mobile fuel tanker vehicle on a residential property. Fire Code requirements are distinct from zoning and enforced by the Fire Marshall. Please contact Fire Marshall William Loesche at (520) 818-1017 x 7011 for specific requirements and information.

Zoning Code Definitions (Chapter 31)

- **Vehicle**

A device in, on or by which a person or property is or may be transported or drawn.

- **Accessory Use**

A [use](#) customarily subordinate to the main [use](#) of the [lot](#) or [building](#).

- **Owner**

The person or persons holding title by deed to land or holding title as vendees under land contract or holding any other title of record.

Section 23.2 A Effect of Establishment of Zoning Districts

No [building](#) or land shall be devoted to any [use](#) other than a [use](#) permitted in the zoning [district](#) in which such [building](#) or land shall be located with the [exception](#) of the following:

4. [Accessory uses](#) customarily incidental to the [permitted uses](#).

Parking of a vehicle on an unimproved surface in the front yard

Section 27.7.D.1.c, Off-Street Parking

Single-[Family](#) Detached: For each [single-family dwelling](#), there shall be at least two (2) [parking spaces](#) and two (2) guest spaces. Parking of any [vehicle](#) in the [front yard](#) of a [lot](#) shall be prohibited unless parked on a surface of asphalt, concrete, rock, or other similar inorganic material with a permanent border.

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INTERPRETATION

1. Is aviation fuel storage and dispensing for personal use allowed on the subject property located within the La Cholla Airpark?

The subject property is located within the La Cholla Airpark and is zoned R1-300, which permits general aviation as an allowed use per table 23-1 of the Zoning Code. This includes the operation of non-commercial aircraft and hangars for storage. Properties within the La Cholla Airpark are subject to the Airport Environs Zone overlay district which further divides the La Cholla Airpark into Compatible Use Zones (CUZ). Table 1 in Section 24.8 of the zoning code further constrains uses for each CUZ and takes precedence over the underlying zoning (Section 24.8.D.1).

Aviation fuel storage currently exists in the private airpark area that contains the runway and is also zoned R1-300. The Pre-Annexation Development Agreement (PADA) specifically identifies fuel storage as a use in this common area for shareholders of La Cholla Airpark and their guests.

The parcel with the runway is located in CUZ A within the Airport Environs Zone and permits accessory uses to general aviation airstrips. Based on the PADA, fuel storage is included as an accessory use to the existing airstrip in CUZ A.

The subject residential property is located in CUZ B within the Airport Environs Zone. CUZ B permits accessory facilities to those in CUZ A. While the Zoning Code does not define an “accessory facility”, an “accessory use” is defined as “a use customarily subordinate to the main use of the lot or building”. Per the PADA, aviation fuel storage is considered an accessory use allowed within CUZ A for general aviation airstrip purposes. As such, aviation fuel storage would also be allowed in CUZ B as an accessory facility to uses in CUZ A. Aviation fuel storage and dispensing is allowed on the subject property based on the existing zoning and CUZ designation.

It is important to distinguish that the intent of CUZ A, which is the parcel with the runway, is for use by La Cholla Airpark shareholders and their guests. As such, aviation fuel would be available to those individuals at this location. However, CUZ B, based on Table 1 in Section 24.8 of the Zoning Code, is intended for residential uses. Any aviation fuel storage and dispensing within CUZ B is only for use by the property owner, not the entirety of La Cholla Airpark.

Both CUZ C and CUZ D do not specify accessory facilities to CUZ A as a permitted use. Therefore, aviation fuel storage on residential properties within these zones is not permitted.

2. Is a mobile fuel tanker allowed to store and dispense aviation fuel for personal use on the subject property located within the La Cholla Airpark?

As determined by the first part of this interpretation, aviation fuel storage is a permitted accessory use on the subject property within CUZ B of the Airport Environs Zone. The Zoning

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Code allows for accessory uses that are “customarily incidental to the permitted uses” (Section 23.2.A.4).

Ms. Derrick has provided documentation that her client, Mr. Grave, owns the fuel tanker that stores aviation fuel for his private aircraft. The Zoning Code does not restrict the number or type of vehicles a property owner may store on their land if the vehicles are owned by them.

Because aviation fuel storage is permitted on the subject property and because Mr. Grave owns the fuel tanker, the tanker is allowed on the parcel for personal use per the Zoning Code. There are, however, distinct requirements in the Fire Code which may prohibit or limit use of a fuel storage vehicle. Please contact Fire Marshall William Loesche at (520) 818-1017 x 7011 for specific requirements and information.

Per 27.7.D.1.c of the Zoning Code, any vehicles parked in the front yard must be “parked on a surface of asphalt, concrete, rock, or other similar inorganic material with a permanent border.” This requirement is applicable to the placement of a fuel tanker on the property, if kept in the front yard.

APPEALS

Persons aggrieved by a Zoning Interpretation may file an appeal to the Board of Adjustment within twenty (20) days from the date it is published on the Town’s website, in accordance with Section 21.6.G of the Town of Oro Valley Zoning Code.

Bayer Vella, LEED-AICP
Planning and Zoning Manager

Date

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